

Assembly Bill No. 2767

CHAPTER 212

An act to amend Sections 703.150, 1085, and 1103 of the Code of Civil Procedure, to amend Section 9213 of the Corporations Code, to amend Section 7643 of the Family Code, to amend Sections 53647.5, 53679, 68084.1, 68092, and 71601 of, and to add Section 27473 to, the Government Code, and to amend Section 13510 of the Penal Code, relating to civil law.

[Approved by Governor August 27, 2010. Filed with
Secretary of State August 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2767, Committee on Judiciary. Civil law: omnibus bill.

(1) Existing law requires the Judicial Council, on or before April 1, 2010, and at each 3-year interval ending on April 1 thereafter, to submit to the Legislature the amount by which the dollar amounts of the homestead exemptions may be increased based on the change in the annual California Consumer Price Index for All Urban Consumers, and to publish a list of the current dollar amounts of those exemptions, as specified.

This bill, instead, would require the Judicial Council to submit to the Legislature the increased dollar amounts for the homestead exemption commencing April 1, 2013.

(2) Existing law provides for any court or inferior tribunal to issue a writ of mandate or a writ of prohibition, as provided.

This bill would correct cross-references within these provisions.

(3) Existing law requires that, in a trial or hearing held pursuant to provisions governing paternity, paper and records, other than the final judgment, are subject to inspection, as provided, including papers and records that are part of the permanent record.

This bill would also allow for the copying of these papers.

(4) Existing law provides for the deposit of moneys, including bail, coming into possession of a judge or officer of a court and deposited in a bank account by the court, as provided.

This bill would make technical, nonsubstantive changes to these provisions.

(5) Existing law provides that any money in a court bank account or in a court trust account in a county treasury that remains unclaimed for 3 years shall become the property of the superior court if, after published notice, the money is not claimed or no verified complaint is filed and served. Existing law provides that if a claim is filed and rejected, or no action is taken on it, the party who submitted the claim may file a verified complaint seeking to recover all, or a specified part, of the money.

This bill would provide that money representing restitution collected on behalf of victims that remains unclaimed for 3 years is to be deposited in the State Restitution Fund or the county general fund, as provided.

(6) Existing law defines subordinate judicial officer as an officer appointed to perform subordinate judicial duties, as authorized, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, and juvenile referee.

This bill would include child support commissioner and juvenile hearing officer in the definition of subordinate judicial officer and make other technical, nonsubstantive changes to these provisions.

(7) Existing law provides for minimum standards relating to the physical, mental, and moral fitness that governs the recruitment of law enforcement officers, as provided.

This bill would delete an obsolete reference in these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 703.150 of the Code of Civil Procedure is amended to read:

703.150. (a) On April 1, 2004, and at each three-year interval ending on April 1 thereafter, the dollar amounts of exemptions provided in subdivision (b) of Section 703.140 in effect immediately before that date shall be adjusted as provided in subdivision (d).

(b) On April 1, 2007, and at each three-year interval ending on April 1 thereafter, the dollar amounts of exemptions provided in Article 3 (commencing with Section 704.010) in effect immediately before that date shall be adjusted as provided in subdivision (d).

(c) On April 1, 2013, and at each three-year interval ending on April 1 thereafter, the Judicial Council shall submit to the Legislature the amount by which the dollar amounts of exemptions provided in subdivision (a) of Section 704.730 in effect immediately before that date may be increased as provided in subdivision (d). Those increases shall not take effect unless they are approved by the Legislature.

(d) The Judicial Council shall determine the amount of the adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics, for the most recent three-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

(e) Beginning April 1, 2004, the Judicial Council shall publish a list of the current dollar amounts of exemptions provided in subdivision (b) of Section 703.140 and in Article 3 (commencing with Section 704.010), together with the date of the next scheduled adjustment. In any year that the Legislature votes to increase the exemptions provided in subdivision (a) of Section 704.730, the Judicial Council shall publish a list of current dollar amounts of exemptions.

(f) Adjustments made under subdivision (a) do not apply with respect to cases commenced before the date of the adjustment, subject to any contrary rule applicable under the federal Bankruptcy Code. The applicability of adjustments made under subdivisions (b) and (c) is governed by Section 703.050.

SEC. 2. Section 1085 of the Code of Civil Procedure is amended to read:

1085. (a) A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.

(b) The appellate division of the superior court may grant a writ of mandate directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of mandate directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

SEC. 3. Section 1103 of the Code of Civil Procedure is amended to read:

1103. (a) A writ of prohibition may be issued by any court to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

(b) The appellate division of the superior court may grant a writ of prohibition directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of prohibition directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

SEC. 4. Section 9213 of the Corporations Code is amended to read:

9213. (a) A corporation shall have a chair of the board, who may be given the title chair of the board, chairman of the board, or chairwoman of the board, or a president or both, a secretary, a treasurer or a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president, the chair of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. If there is no chief financial officer, the treasurer is the chief financial officer of the corporation unless otherwise provided in the articles or bylaws. Any number of offices may be held by the same person unless the articles or bylaws provide otherwise, except that the secretary, the treasurer, or the chief financial officer may not serve concurrently as the president or chair of the board.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without

prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

SEC. 5. Section 7643 of the Family Code is amended to read:

7643. (a) Notwithstanding any other law concerning public hearings and records, a hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. Except as provided in subdivision (b), all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in a public agency or elsewhere, are subject to inspection and copying only in exceptional cases upon an order of the court for good cause shown.

(b) Papers and records pertaining to the action or proceeding that are part of the permanent record of the court are subject to inspection and copying by the parties to the action, their attorneys, and by agents acting pursuant to written authorization from the parties to the action or their attorneys. An attorney shall obtain the consent of the party to the action prior to authorizing an agent to inspect and copy the permanent record. An attorney shall also state on the written authorization that he or she has obtained the consent of the party to authorize an agent to inspect and copy the permanent record.

SEC. 6. Section 27473 is added to the Government Code, to read:

27473. In coroners' cases, interpreters' and translators' fees or other compensation shall be paid from the county treasury upon warrants drawn by the county auditor, when so ordered by the coroner.

SEC. 7. Section 53647.5 of the Government Code is amended to read:

53647.5. Notwithstanding any other provision of law, interest earned on any bail money deposited by a court in a bank account pursuant to Section 1463.1 of the Penal Code and Section 53679 of this code shall be allocated for the support of that court.

SEC. 8. Section 53679 of the Government Code is amended to read:

53679. So far as possible, all money belonging to a local agency under the control of any of its officers or employees other than the treasurer shall, and money deposited as bail coming into the possession of a judge or officer of a superior court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a superior court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a superior court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. That money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a superior court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Article 5 (commencing with Section 29400) or Article 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

SEC. 9. Section 68084.1 of the Government Code is amended to read:

68084.1. (a) Except as otherwise provided by law, any money, excluding restitution to victims, that has been deposited with a superior court, or that a superior court is holding in trust for the lawful owner, in a court bank account or in a court trust account in a county treasury, that remains unclaimed for three years shall become the property of the superior court if, after published notice pursuant to this section, the money is not claimed or no verified complaint is filed and served. After published notice pursuant to this section, if the money is not claimed or no verified complaint is filed and served, money representing restitution collected on behalf of victims that remains unclaimed for three years shall be deposited either into the State Restitution Fund exclusively for the purposes of providing victim services or into the general fund of a county that administers a victim services program exclusively for the provision of victim services.

(b) At any time after the expiration of the three-year period specified in subdivision (a), the executive officer of the superior court may cause a notice to be published once a week for two successive weeks in a newspaper of general circulation published in the county in which the court is located. The notice shall state the amount of money, the fund in which it is held, and that it is proposed that the money will become the property of the court on a designated date not less than 45 days nor more than 60 days after the first publication of the notice.

(c) Before or after publication, a party of interest may file a claim with the court executive officer that shall include the claimant's name, address, amount of claim, the grounds on which the claim is founded, and any other information that may be required by the court executive officer. The claim shall be filed before the designated date on which unclaimed money becomes the property of the court as provided under subdivision (b), and the executive officer shall accept or reject that claim.

(d) If the superior court executive officer rejects the claim, or takes no action on the claim within 30 days after it is filed, the party that submitted the claim may file a verified complaint seeking to recover all, or a specified part, of the money in the court in the county in which the notice is published. The copy of the complaint and summons shall be served on the court executive officer. The court executive officer shall withhold the release of

the portion of unclaimed money for which a court action has been filed as provided in this section until the court renders a decision or the claim is settled. Any portion of the unclaimed money not covered by the verified complaint shall become the property of the court if no other claim or verified complaint has been filed regarding it within the time specified in this section. If the party that submitted the claim does not file a verified complaint within 30 days after the date that the court mailed notice that the claim was rejected or within 60 days after the claim was filed, the money shall become the property of the court.

(e) Notwithstanding subdivisions (c) and (d), the court executive officer may release the unclaimed money to the depositor of the unclaimed money, or the depositor's heir, beneficiary, or duly appointed representative, if the depositor or the depositor's heir, beneficiary, or duly appointed representative claims the money before the date that the money becomes the property of the superior court, upon submitting proof satisfactory to the court executive officer.

(f) If no claim is filed under subdivision (c) and the time for filing claims has expired, the money shall become the property of the court. If a claim or claims are filed with respect to a portion of the money, but not the remainder of the money, and the time for filing claims under subdivision (c) has expired, the remainder of the money shall become the property of the court.

(g) Notwithstanding any other provision of this section, the presiding judge may direct the transfer of any individual deposit of twenty dollars (\$20) or less, or any amount if the name of the original depositor is unknown, that remains unclaimed for one year to the Trial Court Operations Fund without the need for publication of notice.

(h) The court executive officer may delegate the responsibilities provided in this section to appropriate superior court staff.

(i) When any money deposited and held under this section becomes the property of a superior court, the presiding judge shall transfer it to the Trial Court Operations Fund.

SEC. 10. Section 68092 of the Government Code is amended to read:

68092. Court interpreters' and translators' fees or other compensation shall be paid:

(a) In criminal cases, by the court.

(b) In civil cases, by the litigants, in proportions as the court may direct, to be taxed and collected as other costs.

SEC. 11. Section 71601 of the Government Code is amended to read:

71601. For purposes of this chapter, the following definitions shall apply:

(a) "Appointment" means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court's personnel policies, procedures, and plans.

(b) "Employee organization" means either of the following:

(1) Any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with that trial court.

(2) Any organization that seeks to represent trial court employees in their relations with that trial court.

(c) “Hiring” means appointment as defined in subdivision (a).

(d) “Mediation” means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the trial court and the recognized employee organization or recognized employee organizations through interpretation, suggestion, and advice.

(e) “Meet and confer in good faith” means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

(f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and regulations” mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) “Promotion” means promotion within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) “Recognized employee organization” means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under former Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630).

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, child support commissioner, referee, traffic referee, juvenile court referee, and juvenile hearing officer.

(j) “Transfer” means transfer within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) “Trial court” means a superior court.

(l) “Trial court employee” means a person who is both of the following:

(1) Paid from the trial court’s budget, regardless of the funding source. For the purpose of this paragraph, “trial court’s budget” means funds from which the presiding judge of a trial court, or his or her designee, has authority

to control, authorize, and direct expenditures, including, but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court's right to control the manner and means of his or her work because of the trial court's authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the "trial court" includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a "trial court employee" if and only if both paragraphs (1) and (2) of subdivision (l) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 10.810 of the California Rules of Court. "Trial court employee" includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase "trial court employee" does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, temporary judges, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days, except that for court reporters in a county of the first class, a trial court and a recognized employee organization may provide otherwise by mutual agreement in a memorandum of understanding or other agreement.

SEC. 12. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department,

peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.